



**STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL  
CONTROL (“DNREC”)**

**ENFORCEMENT AND COMPLIANCE  
ANNUAL REPORT**

*for*

**State Fiscal Year 2005  
(7/1/04 to 6/30/05)**

**Report Issued: February 28, 2006**

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b>I. SECRETARY’S MESSAGE .....</b>	<b>3</b>
<b>II. BACKGROUND .....</b>	<b>4</b>
<b>III. EDUCATION, OUTREACH, POLLUTION PREVENTION, COMPLIANCE ASSISTANCE, AND HAZARDOUS SUBSTANCE CLEANUP ACT PROGRAMS .....</b>	<b>7</b>
<b>IV. DEPARTMENTAL SUMMARIES FOR ENVIRONMENTAL REGULATORY PROGRAMS .....</b>	<b>10</b>
<b>V. ADMINISTRATIVE AND CIVIL ENFORCEMENT ACTIONS.....</b>	<b>16</b>
<b>VI. CRIMINAL ENVIRONMENTAL ENFORCEMENT .....</b>	<b>21</b>
<b>VII. ENVIRONMENTAL IMPROVEMENT PROJECTS AND THE DNREC COMMUNITY ENVIRONMENTAL FUND .....</b>	<b>23</b>
<b>VIII. APPENDIX OF SPECIFIC PROGRAM INFORMATION.....</b>	<b>26</b>
<b>Air Quality Management .....</b>	<b>27</b>
<b>Solid Waste Management.....</b>	<b>29</b>
<b>Hazardous Waste Management.....</b>	<b>31</b>
<b>Underground Storage Tank Management.....</b>	<b>33</b>
<b>Aboveground Storage Tank Management.....</b>	<b>35</b>
<b>Surface Water Discharges Program and Industrial Stomwater (NPDES).....</b>	<b>37</b>
<b>Septic/Ground Water Discharges Program.....</b>	<b>39</b>
<b>Sediment and Stormwater Management .....</b>	<b>41</b>
<b>Accidental Release Prevention.....</b>	<b>43</b>
<b>Wetlands and Subaqueous Lands .....</b>	<b>45</b>
<b>Beach Preservation Program .....</b>	<b>47</b>
<b>Brownfields, HSCA Enforcement and Voluntary Cleanup Programs .....</b>	<b>49</b>
<b>HSCA Post Cleanup Operation and Maintenance (O&amp;M) Inspections .....</b>	<b>51</b>
<b>Pollution Prevention Program.....</b>	<b>53</b>
<b>Small Business Assistance Program .....</b>	<b>55</b>
<b>Boiler Safety Program .....</b>	<b>57</b>

## **I. SECRETARY'S MESSAGE**

Fellow Delawareans:

I am pleased to present to you DNREC's Annual Enforcement and Compliance Report for State Fiscal Year 2005 (7/1/04 to 6/30/05). Our agency has compiled this report for two important purposes: as a self-evaluation tool and to educate and inform the general public, legislators and DNREC's regulated community of our efforts in compliance assistance and environmental enforcement. This edition marks our third publication of the annual report.

This report is intended to give the reader an overall snapshot of the work performed in the agency's various compliance assistance and enforcement programs charged with pollution control activities. It was compiled from the Delaware Environmental Navigator - **DEN** – which is the Department's dynamic database that brings together core environmental information into one place where it is easily accessible to those within DNREC and the public. Currently it contains a variety of information on over 11,000 regulated facilities/sites and is accessed by at least 75 citizens every day. This valuable tool for improving access to information was made possible through the support of the General Assembly which appropriated the essential funding from penalty and general funds.

Added to this year's report are the Industrial Stormwater and Boiler Safety programs. Enforcement and compliance efforts relating to the Industrial Stormwater program have been historically reported and included in the NPDES/Surfacewater program statistics. In FY05, the information on this specific program was broken out from the traditional NPDES program to give readers a better picture of the work being performed in the industrial stormwater sector. The Boiler Safety program moved to DNREC from Public Safety in 2003. Since that move, this is the first year that the program is reporting its enforcement and compliance information in DNREC's Annual Report.

As you will see in the background section of the report, DNREC has adopted a progressive discipline approach throughout its programs. We strive to first promote environmental stewardship and responsibility through many means such as: environmental education and outreach, assisting small businesses in understanding and meeting complex regulatory requirements, on-site visits to aid businesses in reducing or recycling wastes, and providing incentives to redevelop once contaminated properties.

Inevitably, in some circumstances, it becomes necessary to utilize administrative, civil, and criminal enforcement. Although these types of enforcement actions should only be used as a last resort, they are integral tools for the agency to protect human health and the environment and ensure continued compliance with Delaware's environmental laws and regulations.

The agency will continue to provide Delaware's citizens with updated enforcement and compliance information in the coming years, and we look forward to your feedback and suggestions regarding the content of future reports, through our website. Thank you for your interest.

John A. Hughes, Secretary  
Delaware Department of Natural Resources and  
Environmental Control

## **II. BACKGROUND**

### **Purpose of Annual Report**

The purpose of the Delaware Department of Natural Resources and Environmental Control's ("DNREC's" or "Department's") Enforcement and Compliance Annual Report is to present environmental enforcement and compliance efforts to its regulated community, lawmakers, and the public at large for the preceding State Fiscal Year.

This Annual Report reflects information from DNREC's enforcement and compliance programs from State Fiscal Year 2005 (7/1/04 to 6/30/05). Additionally, for comparative purposes, program information for Fiscal Years 2002 (7/1/01 to 6/30/02), 2003 (7/1/02 to 6/30/03), and 2004 (7/1/03 to 6/30/04) is also included in the Appendix to the report.

The information contained in the annual report will enable the public, regulated community and lawmakers to broadly view DNREC's efforts in assuring that regulated entities are complying with the state's environmental laws and regulations.

### **Relationship between DNREC's Annual Report and DNREC's Compliance and Enforcement Response Guide ("CERG")**

In September 2002, DNREC published its first Compliance and Enforcement Response Guide ("CERG"). The CERG was developed and refined with public input over the course of a year, and was primarily meant to assist DNREC managers and staff in developing comprehensive compliance assurance strategies. An important secondary benefit of the Guide has been to inform the regulated community, elected officials and the general public about the manner by which DNREC conducts its compliance and enforcement activities.

The CERG has established a framework for DNREC's compliance and enforcement activities by setting forth the goals, principles and processes that managers and staff follow on a day-to-day basis. Its implementation focuses to improve the consistency, efficiency and effectiveness of DNREC's enforcement activities and to promote a centralized process for coordination of air, waste, water and other environmental violations. DNREC, through the CERG, has outlined its mission and goals relating to environmental enforcement by making its internal processes transparent to everyone.

The relationship between DNREC's Annual Report and its Compliance and Enforcement Response Guide is that the Annual Report gives the reader statistics and examples of how the agency has used the CERG's framework and guidance to encourage environmental stewardship, promote compliance, and resolve environmental violations for the time period covered by the report.

The most current version of DNREC's Guide can be found at the following web link:

<http://www.dnrec.state.de.us/dnrec2000/Admin/Enforcement/Guide/CandEGuide.htm>

## **DNREC'S Mission, Goals, and Principles for Environmental Enforcement and Compliance**

In an ideal world, regulation is replaced by stewardship; an inherent respect for the environment. In this concept of stewardship, everyone takes responsibility for their actions and the use of resources for the benefit of the community. In the real world, stewardship is sometimes compromised by conflicting priorities, values, capabilities and perspectives. This creates the need for regulation and enforcement.

The challenge for regulators is to balance the use of compliance tools with the recognition of stewardship efforts. Regulated entities must be made aware of the conditions for compliance, made to feel the consequences of non-compliance, and provided with an opportunity to demonstrate behavior beyond compliance. When enforcement is necessary, it should be fair, focused, visible and timely. DNREC uses this progressive discipline approach in making its enforcement decisions.

To further the progressive discipline approach, the following are DNREC's principles for environmental compliance and enforcement:

1. Compliance is the first step toward the ultimate goal of stewardship.
2. Enforcement will be balanced with education, technical assistance, and incentives to achieve compliance and encourage stewardship.
3. Enforcement will be an effective deterrent against future violations.
4. Enforcement actions will increase in severity for regulated entities with poor compliance histories.
5. The cost of non-compliance should be greater than the cost of compliance.
6. Resources utilized by DNREC to assure compliance will be used proportional to the potential impact on human health and the environment in keeping with statutory responsibilities.
7. DNREC will support the development and use of alternative tools to traditional enforcement that achieve compliance and encourage going beyond compliance.
8. DNREC will trust, empower, and support its employees to make enforcement decisions and use discretion where appropriate.
9. DNREC will ensure that its employees are well trained and informed to make enforcement decisions that are fair, appropriate and substantively consistent across program areas.
10. Enforcement policies, procedures, pertinent data, and other critical information will be accessible to any interested party.
11. Enforcement decisions will be defensible, documented, and proportional to the degree of potential harm.
12. DNREC will foster partnerships internally and externally to realize shared responsibilities in environmental stewardship.
13. Equity must result from the treatment of people of all races, income, and cultures with respect to the development, implementation, and enforcement of environmental laws, regulations and policies.

## **Content of Report**

**Please Note:** The Enforcement and Compliance Annual Report does not include Division of Parks and Recreation or Division of Fish and Wildlife enforcement efforts. This report is intended to address environmental compliance and enforcement of regulated pollution control activities.

### **III. EDUCATION, OUTREACH, POLLUTION PREVENTION, COMPLIANCE ASSISTANCE, AND HAZARDOUS SUBSTANCE CLEANUP ACT PROGRAMS**

#### **Environmental Education and Outreach**

DNREC believes that a multi-faceted approach is the best way to encourage and maintain compliance with environmental laws and regulations and to stimulate a sense of responsibility and stewardship that goes well beyond compliance. This section of the Annual Report presents an overview of DNREC's various education and outreach activities, with reference as applicable to the interaction between the approach and specific compliance assurance activities or objectives.

At times, education and outreach activities overlap with technical assistance activities. For example, a seminar might cover a topic in such a way that an attendee can learn how to implement improvements at their work facility based on the presentation, even though the primary focus of the seminar was more general education and outreach.

Throughout each year, DNREC staff frequently undertakes education and outreach activities. The majority of such activities are directed to the public at large as well as to a broad range of people more directly affected by environmental laws, such as municipal officials, industrial hazardous waste managers, pollution control facility operators, and individual property owners.

The activities are designed to elevate awareness and instill a sense of personal and corporate responsibility for compliance and, ultimately, to foster environmental stewardship. Routine inspections, permit application processing, and other DNREC endeavors also typically incorporate education and outreach. Thus, these activities also are a key component of DNREC's compliance assurance goal.

In addition to providing more general information to a larger audience, many education and outreach activities play a more direct role in promoting compliance with environmental laws and in addressing violations that have occurred. DNREC inspectors frequently carry fact sheets on topics that are anticipated to be of concern or benefit to property owners and facility managers. DNREC's settlements of administrative enforcement actions sometimes include as a condition of settlement that the alleged violator:

- attend or sponsor a continuing education seminar covering the area from which the underlying violation arose;
- periodically provide the community with environmental performance reports; or
- implement an Environmental Management System (EMS).

#### **Pollution Prevention and Compliance Assistance**

The Office of the Secretary houses the Pollution Prevention Program, Clean Air Act Small Business Ombudsman and general permitting assistance programs. This office is responsible for preparing, coordinating, and disseminating informational material to the regulated community and the general public, for coordinating the Regulatory Advisory Service, and for providing direct technical/compliance assistance to facilities.

An important feature of the Pollution Prevention and Compliance Assistance programs is the Regulatory Advisory Service ("RAS"). The RAS is a forum for prospective and existing businesses located in Delaware who are seeking information concerning environmental permitting requirements. This service is unique to Delaware and has existed within DNREC for over 20 years, under various names. Individuals who have site plans or conceptual designs for commercial establishments, major manufacturing facilities, utility operations

and the like may request a meeting of the RAS. There, in one room, a business can meet regulators from all divisions in DNREC and receive advice and/or regulatory requirements likely to impact their project.

### **DNREC Small Business Ombudsman**

DNREC's Small Business Ombudsman ("SBO") position was created by the federal Clean Air Act Amendments of 1990 which required each state to implement a Small Business Assistance Program and employ an Ombudsman to administer the program. The SBO assists small businesses in understanding and complying with the requirements set forth by the Clean Air Act, as well as other environmental rules and regulations. This position ensures that the special needs of small businesses are not overlooked when new regulations are developed by the agency. DNREC's SBO is a member of the Delaware Small Business Resource Partnership, which is a consortium of State and Non-profit agencies that serve small businesses in Delaware. The SBO works with small businesses by answering questions on the phone, through e-mails, and in person, as well as through training workshops and seminars.

### **Pollution Prevention Program ("P2")**

DNREC's Pollution Prevention Program ("P2") provides non-regulatory compliance assistance to businesses and industrial facilities in identifying and implementing cost effective waste reduction opportunities.

This program promotes movement to the top of the Waste Management Hierarchy, from managing wastes to reducing or eliminating waste generation by: source reduction, recycling, treatment, and disposal. Changes in waste management practices to source reduction/pollution prevention approaches often result not only in environmental benefits, but economic benefits as well. If waste is not generated, there are no costs involved in its handling or disposal. Investments in source reduction are often recouped through reduced waste management costs in addition to potential process and product development.

This program provides free confidential advice on how to reduce waste generation and improve profitability. This help is available to any business (small or large), industry or governmental agency.

### **Brownfields, HSCA Enforcement and Voluntary Cleanup Programs**

The Site Investigation and Restoration Branch of DNREC is responsible for performing and overseeing the investigation and cleanup of contaminated sites located in the State of Delaware. This includes the cleanup of former industrial properties that may be highly contaminated, as well as sites that have a lower level of contamination that may pose a long term risk to human health and the environment. Delaware has been successful in solving these problems by using our non-traditional Voluntary Cleanup and Brownfields Program, as well as implementing a Hazardous Substance Cleanup Act ("HSCA") Enforcement Program as needed. Since 1991 DNREC has identified approximately 662 sites in Delaware as potential hazardous substance release sites that have required investigation and cleanup of chemical contamination found in the environment. Delaware has worked cooperatively with responsible parties under our Voluntary Cleanup and Brownfields Programs to address performing investigation and cleanup at potential contaminated properties. Both the Voluntary Cleanup and Brownfields programs have been successful in attracting businesses to areas where infrastructure already exists and incentives for redevelopment are needed. Since the inception of the programs, 190 sites have entered the program; 147 sites are currently undergoing cleanup; and 48 sites have been cleaned up for reuse. This has resulted in the reuse of 1,810+ acres of abandoned and/or underutilized properties. If under the Brownfields and Voluntary Cleanup Programs owners and developers do not perform cleanup activities necessary for protecting human health and the environment as directed by the program, the Department will use its statutory and regulatory authorities associated with a more traditional enforcement



program and legally require potential responsible parties to perform any necessary work to mitigate a release of a hazardous substance. In some cases, the Department may undertake the work itself and recover its costs from various responsible parties.

### **Promoting Compliance**

In order to promote compliance with its environmental laws and regulations, DNREC's Office of the Small Business Ombudsman and the Office of Pollution Prevention have environmental programs that focus on several program areas that assist regulated parties improve and achieve compliance. The following are examples of compliance efforts from these two programs:

#### **Auto Body Self-Certification Project**

The Auto Body Self-Certification Program was designed to explain to auto body shops the environmental requirements, such as permits, that apply to their businesses in an easy to understand format. The program employed a multi-media approach which informed the businesses of air, waste, and water program requirements. The program used workshops, a workbook, and a self-certification form to educate the businesses of their compliance requirements. The program also went a step further by identifying and suggesting ways to improve auto body businesses through energy efficiency and pollution prevention. This program was a voluntary program. The deadline for participation was March 31, 2005.

Baseline and follow up surveys were conducted at auto body shops in Delaware to determine the effectiveness of the program. The results showed that there was a 68% participation rate by the auto body shops. Based on the data collected, DNREC was able to conclude that a significant improvement in environmental performance and compliance was observed in many of the Environmental Business Practice Indicators. Results indicate that overall compliance has improved as a result of the Delaware Auto Body Self-Certification Program.

#### **Clean Marinas Program**

The Clean Marina Program is a compliance assistance program for marinas and boat owners that had already been established and successfully implemented in other states. Delaware recognized that marinas were not operating in compliance with all applicable DNREC regulations and wanted to educate this business sector. The program is a partnership among DNREC, University of Delaware Sea Grant Program, Boat U.S. (non-profit), the U.S. Coast Guard Auxiliary, marina owners/operators and boat owners, known as The Delaware Clean Marina Committee. The Committee signed a Memorandum of Agreement in order to make this project successful in all enforcement and compliance areas.

The Clean Marina Committee developed a comprehensive workbook with all applicable Delaware regulations and best management practices for marinas and boat owners. The program has held numerous workshops addressing the overall program and specific regulations, as well as topics such as Hazardous Waste Issues and Operation and Maintenance plans. The program provides on-site visits to participating marinas and performs on-site audits of marinas that are prepared to be certified. Each marina that participates in the program gains a wealth of knowledge and understanding of environmental regulations and pollution prevention. The program tracks the changes that each marina makes such as installing pump-out systems, implementing hazardous waste management, recycling and writing their Operation and Maintenance and SPCC plans.

## DEPARTMENTAL SUMMARIES FOR ENVIRONMENTAL REGULATORY PROGRAMS

The following charts present basic information about DNREC's environmental regulatory programs in an "at-a-glance" format. These programs conduct various compliance inspections at sites and facilities to detect violations of environmental requirements. The charts reflect information gathered for FY05.<sup>1</sup>

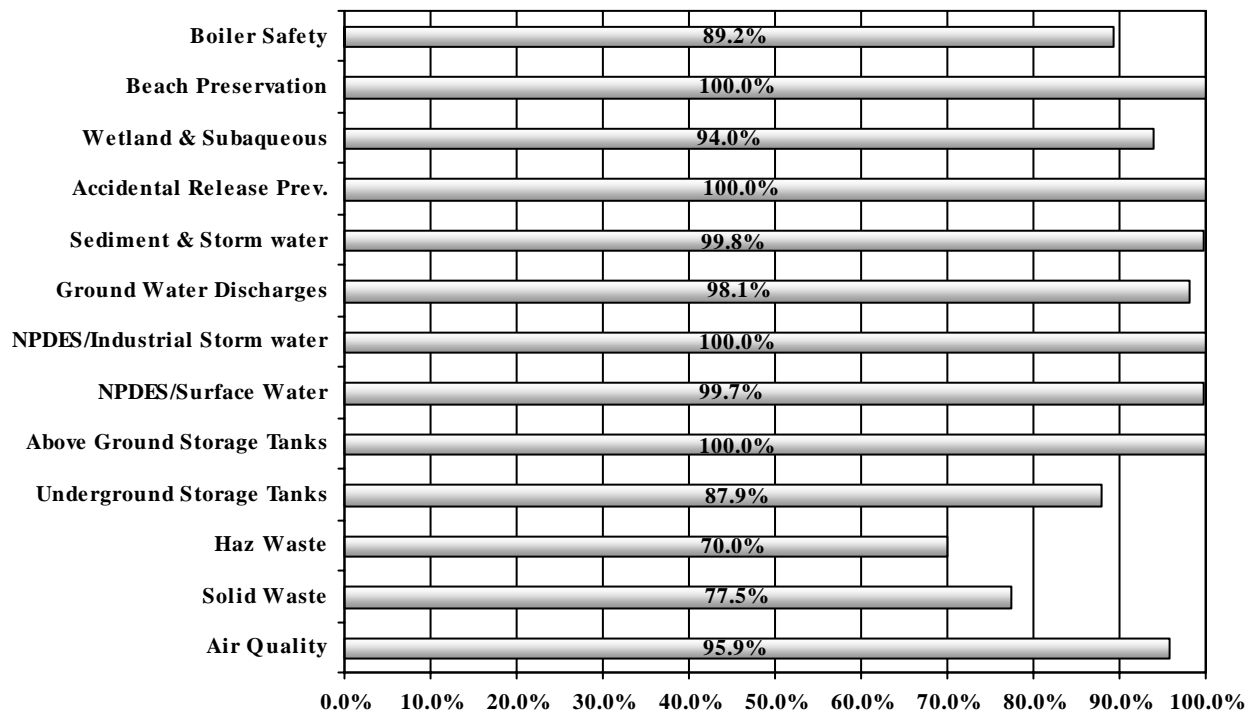
The following regulatory programs are highlighted in this section:

1. Air Quality Management
2. Solid Waste Management
3. Hazardous Waste Management
4. Underground Storage Tank Management
5. Aboveground Storage Tank Management
6. NPDES - Surface Water Discharges Program
7. NPDES - Industrial Stormwater Program
8. Ground Water/Septic Discharges
9. Sediment and Stormwater Program
10. Accidental Release Prevention
11. Wetlands and Subaqueous Lands
12. Beach Preservation
13. Boiler Safety Program

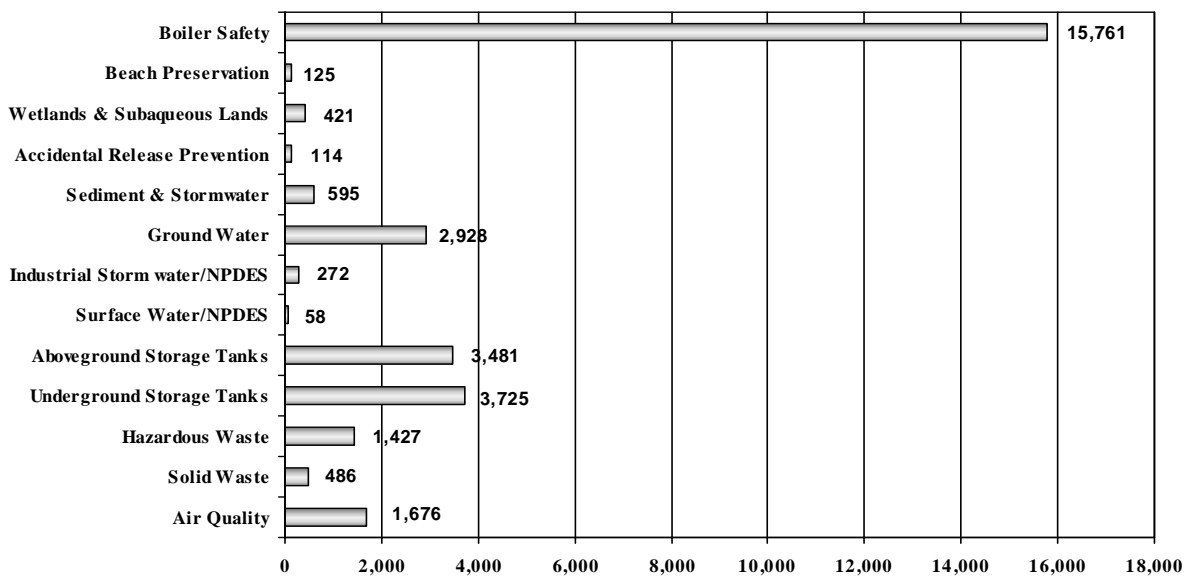
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<sup>1</sup> Due to the large amount of information gathered from these programs, please see the Appendix section of the Annual Report for detailed information from FY05, FY04, FY03, and FY02 for the above noted programs.

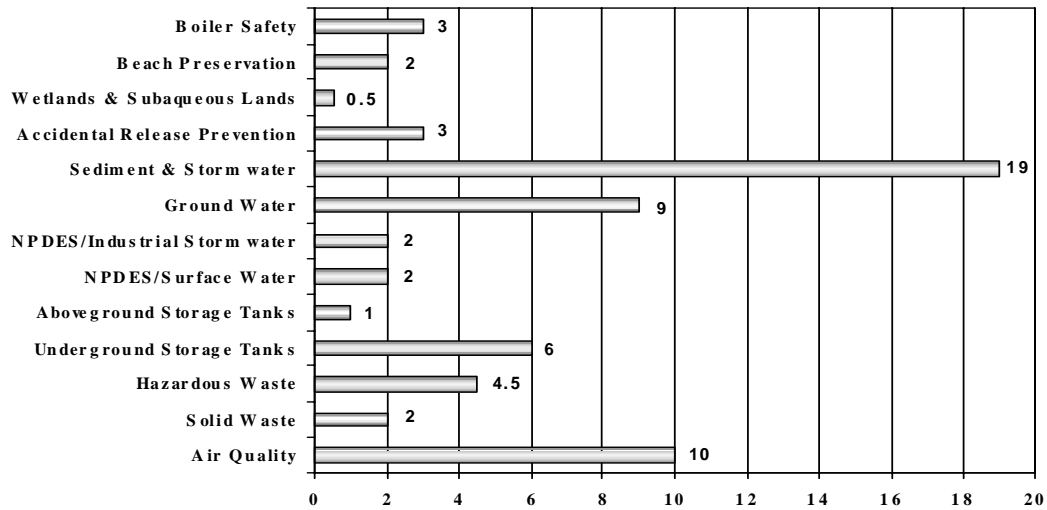
## COMPLIANCE RATES AT TIME OF REVIEW FOR FY05



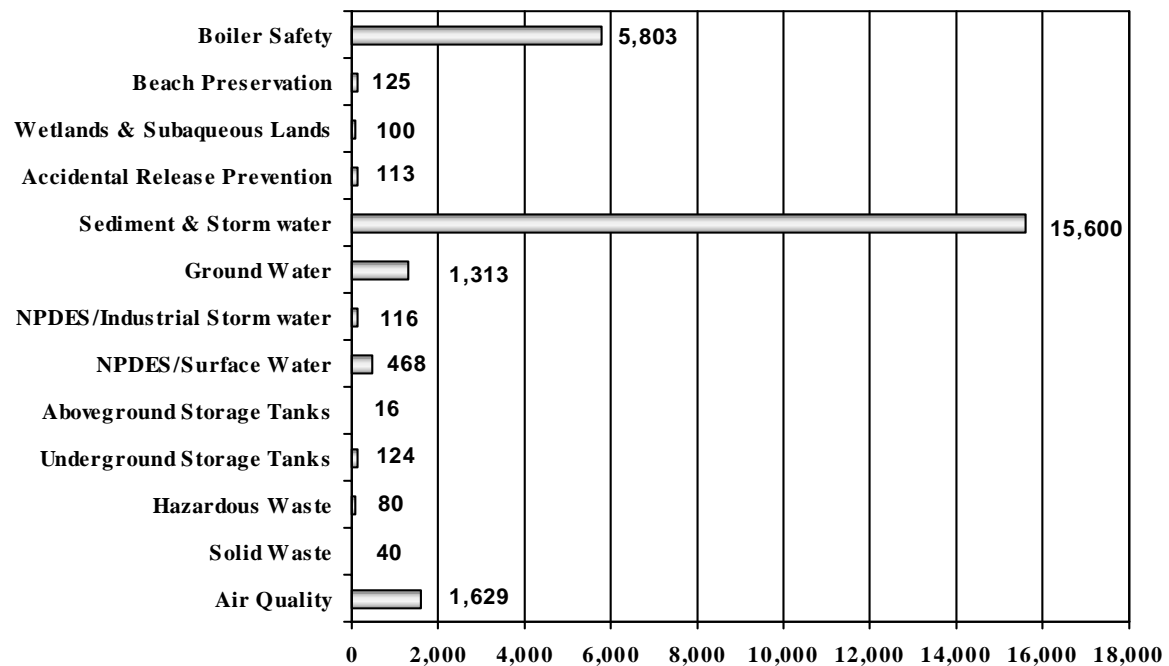
## UNIVERSE / NUMBER OF FACILITIES / SITES REGULATED FOR STATE FY05 BY PROGRAM



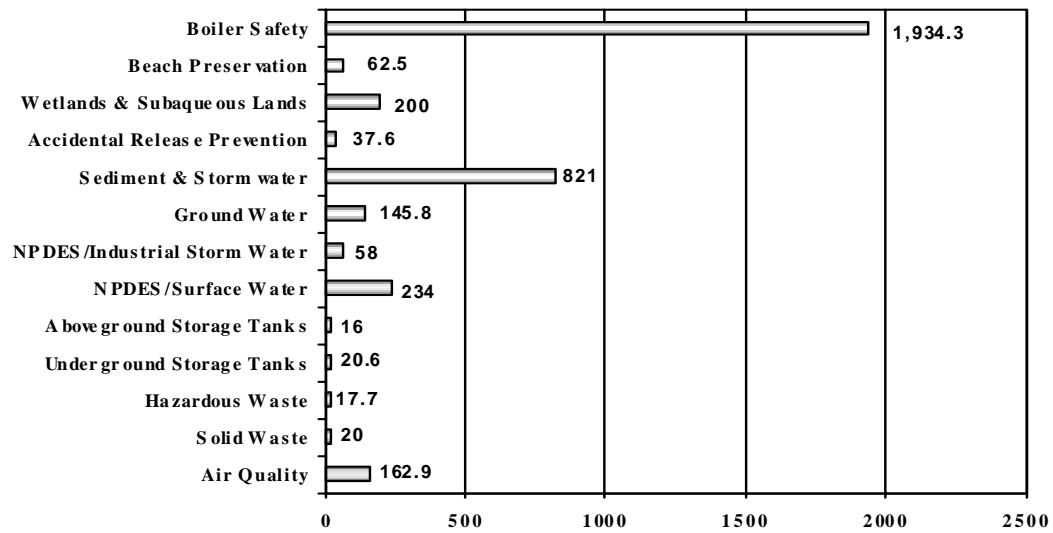
**FY05 FULL TIME EQUIVALENT ("FTE")  
COMPLIANCE INSPECTOR POSITIONS BY PROGRAM**



**TOTAL NUMBER OF OFF-SITE AND ON-SITE  
COMPLIANCE INSPECTIONS PERFORMED  
BY PROGRAM FOR STATE FY05**



**COMPLIANCE INSPECTIONS PERFORMED PER  
FTE INSPECTOR FOR STATE FY05**



**DNREC MULTI-YEAR COMPLIANCE ANALYSIS  
STATE FISCAL YEARS 2003, 2004 AND 2005**

PROGRAM	PROGRAM UNIVERSE	TOTAL COMPLIANCE MONITORING ACTIVITIES CONDUCTED (Includes both On-site and Off-site compliance activities)	COMPLIANCE MONITORING ACTIVITY AS % OF UNIVERSE	TOTAL ENFORCEMENT ACTIONS FROM THESE ACTIVITIES (Includes NOV's and higher level enforcement actions)	COMPLIANCE AT TIME OF REVIEW
<b>Air Quality</b>					
FY03	1,033	956	92.5%	101	89.5%
FY04	1,144	2,432	212.6%	111	95.2%
FY05	1,676	1,629	97%	66	95.9%
<b>Solid Waste</b>					
FY03	468	40	8.5%	15	62.5%
FY04	431	44	10.2%	8	81.8%
FY05	486	40	8.2%	9	77.5%
<b>Hazardous Waste</b>					
FY03	1,444	57	3.9%	12	78.9%
FY04	1,395	80	5.7%	19	76.3%
FY05	1,427	80	5.6%	24	70%
<b>Underground Storage Tanks</b>					
FY03	3,730	118	3.1%	7	94.1%
FY04	3,772	132	3.5%	13	90.2%
FY05	3,725	124	3.3%	15	87.9%
<b>Above Ground Storage Tanks</b>					
FY03	3,790	N/A	N/A	N/A	N/A
FY04	3,503	0	N/A	0	N/A
FY05	3,481	16	0.46%	0	100%
<b>NPDES / Surface Water</b>					
FY03	60	632	1053.0%	1	99.8%
FY04	59	805	1364.4%	2	99.8%
FY05	58	468	806.8%	1	99.7%
<b>NPDES/ Industrial Stormwater<sup>♦</sup></b>					
FY03	N/A	N/A	N/A	N/A	N/A
FY04	N/A	N/A	N/A	N/A	N/A
FY05	272	116	42.6%	0	100%

<sup>♦</sup> FY05 is the first year of reporting for the NPDES Industrial Stormwater program, specifically. In past years, industrial Stormwater was reported/included in the NPDES/Surface Water statistics. See Program Appendix section for more information.

**DNREC MULTI-YEAR COMPLIANCE ANALYSIS**  
**STATE FISCAL YEARS 2003, 2004 AND 2005**

PROGRAM	PROGRAM UNIVERSE	TOTAL COMPLIANCE MONITORING ACTIVITIES CONDUCTED (Includes both On-site and Off-site compliance activities)	COMPLIANCE MONITORING ACTIVITY AS % OF UNIVERSE	TOTAL ENFORCEMENT ACTIONS FROM THESE ACTIVITIES (Includes NOV's and higher level enforcement actions)	COMPLIANCE AT TIME OF REVIEW
<b>Sediment and Stormwater</b>					
FY03	1,232*	5,000*	405.8%	7	99.9%
FY04	1,433*	5,700*	397.8%	10	99.8%
FY05	595*	15,600*	2,621.8%	19	99.8%
<b>Accidental Release Prevention</b>					
FY03	105	26	24.8%	0	100.0%
FY04	112	72	64.3%	2	97.2%
FY05	114	113	99.1%	0	100.0%
<b>Septic/Groundwater Disch.</b>					
FY03	3,101	1,249	40.3%	23	98.2%
FY04	3,240	1,301	40.2%	24	98.2%
FY05	2,928	1,313	44.0%	55	98.1%
<b>Wetlands and Subaqueous</b>					
FY03	400	137	34.3%	3	97.8%
FY04	510	165	32.4%	2	98.8%
FY05	421	100	23.7%	6	94.0%
<b>Beach Preservation</b>					
FY03	9,200	478,000	5,200.0%	0	100.0%
FY04	9,200	478,000	5,200.0%	0	100.0%
FY05	9,200	478,000	5,200.0%	0	100.0%
<b>Boiler Safety**</b>					
FY03	N/A	N/A	N/A	N/A	N/A
FY04	N/A	N/A	N/A	N/A	N/A
FY05	15,761	5803	36.8%	626	89.2%

\* These numbers reflect estimations based on information available at the time of reporting for those fiscal years. The FY05 universe number reflects only the plan approval issued during this fiscal year. It does not necessarily reflect the number of regulated sites (active sites). The FY05 compliance monitoring numbers reflect the number of off-site compliance monitoring activities conducted (4,600) are Certified Construction Reviewer (CCR) inspections. The number of on-site compliance monitoring activities (11,000) represents the number of inspections performed by the delegated agencies and 1 FTE DNREC inspector for state projects.

\*\* FY05 is the first year of reporting for the Boiler Safety Program, which was moved to DNREC from Public Safety in 2003. See Program Appendix section for more information.

## **V. ADMINISTRATIVE AND CIVIL ENFORCEMENT ACTIONS**

This section of the annual report summarizes the administrative and civil enforcement actions taken by DNREC in FY05. The summary reflects the actions issued in the fiscal year period.

For more detailed information on each of the enforcement actions listed in the summary, please see the Department's Environmental Navigator database at: [www.dnrec.state.de.us/DNRECeis/](http://www.dnrec.state.de.us/DNRECeis/)



**DNREC ADMINISTRATIVE AND CIVIL ACTIONS ISSUED FOR  
STATE OF DELAWARE FISCAL YEAR 2005  
(7/1/04 TO 6/30/05)**

	<b>FACILITY / RESPONDENT/ DEFENDANT</b>	<b>COUNTY AND CITY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(S) OF VIOLATIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
1.	Contractor Materials, LLC	New Castle County – New Castle, DE	Amended Notice of Administrative Penalty Assessment and Secretary's Order No. 2004-A-0043 (Issued: 7/19/04)	Air Quality	\$12,250.00	\$1,554.00	N
2.	American Minerals, Inc.	New Castle County – New Castle, DE	Notice of Amended Administrative Penalty Assessment and Secretary's Order No. 2004-A-0045 (Issued: 7/24/04)	Air Quality	\$10,000.00	\$1,601.52	N
3.	Laidlaw Corporation	New Castle County – New Castle, DE	Notice of Administrative Penalty Assessment and Secretary's Order No. 2004- A-0049 (Issued: 9/23/04)	Air Quality	\$31,500.00	\$1,782.50	N
4.	F.P. International	New Castle County – Newark, DE	Notice of Conciliation Proceedings and Secretary's Order No. 2004-A-0050 (Issued: 9/29/04)	Air Quality	N/A	N/A	N
5.	Butler, Perry	Sussex County – Greenwood, DE	Secretary's Order to Cease and Desist (Issued: 10/25/04)	Solid and Hazardous Waste	N/A	N/A	N
6.	Louis Capano & Associates, Inc.	New Castle County – Newark, DE	Notice of Conciliation and Secretary's Order No. 2004- A-0054 (Issued: 11/23/04)	Solid Waste	N/A	N/A	N

	<b>FACILITY / RESPONDENT/ DEFENDANT</b>	<b>COUNTY AND CITY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(s) OF VIOLATIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
7.	<b>Gemcraft Homes Delaware, Inc.</b>	<b>New Castle County – Newark, DE</b>	<b>Notice of Conciliation and Secretary's Order No. 2004-A-0055 (Issued: 11/23/04)</b>	<b>Solid Waste</b>	<b>N/A</b>	<b>N/A</b>	<b>N</b>
8.	<b>Butler, Perry</b>	<b>Sussex County – Greenwood, DE</b>	<b>Secretary's Order to Cease and Desist (Issued: 11/23/04)</b>	<b>Solid and Hazardous Waste</b>	<b>N/A</b>	<b>N/A</b>	<b>N</b>
9.	<b>The Woods on Herring Creek Homeowner's Assn</b>	<b>Sussex County – Lewes, DE</b>	<b>Notice of Conciliation and Secretary's Order No. 2004-W-0060 (Issued: 12/20/04)</b>	<b>Ground Water</b>	<b>N/A</b>	<b>N/A</b>	<b>N</b>
10.	<b>USFilter Operating Services, Inc.</b>	<b>New Castle County – Wilmington, DE</b>	<b>Amended Notice of Administrative Penalty Assessment and Order No. 2004-W-061 and Settlement Agreement (Signed: 12/22/04)</b>	<b>Water – NPDES</b>	<b>\$18,000.00</b>	<b>\$3,000.00</b>	<b>Y - \$25,000 total in donations to the Red Clay Creek Cleanup Project (\$10,000) and the Christina River Cleanup (\$15,000)</b>
11.	<b>Seawatch International</b>	<b>Kent County - Milford, DE</b>	<b>Notice of Conciliation Proceedings and Secretary's Order No. 2004-A-0063 (Issued: 12/28/04)</b>	<b>Solid and Hazardous Waste</b>	<b>N/A</b>	<b>N/A</b>	<b>N</b>
12.	<b>Butler, Perry</b>	<b>Sussex County – Greenwood, DE</b>	<b>Notice of Conciliation Proceedings and Secretary's Order No. 2004-A-0064 (Issued: 12/29/04)</b>	<b>Solid and Hazardous Waste</b>	<b>N/A</b>	<b>N/A</b>	<b>N</b>
13.	<b>F.A. Potts &amp; Co., Int'l, Inc.</b>	<b>New Castle County – Wilmington, DE</b>	<b>Notice of Conciliation Proceedings, Administrative Penalty Assessment and Secretary's Order No. 2005-A-0005 (Issued: 1/12/05)</b>	<b>Solid Waste</b>	<b>(\$50,000) Penalty waived as work required in Order was performed</b>	<b>\$632.80</b>	<b>N</b>

	<b>FACILITY / RESPONDENT/ DEFENDANT</b>	<b>COUNTY AND CITY IN WHICH VIOLATION OCCURRED</b>	<b>ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT</b>	<b>MEDIA / TYPE(s) OF VIOLATIONS</b>	<b>PENALTY AMOUNT PAID</b>	<b>INVESTIGATIVE AND LEGAL COST RECOVERY</b>	<b>ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)</b>
14.	Motiva Enterprises, LLC	New Castle County – New Castle, DE	Notice of Administrative Penalty Assessment and Secretary's Order No. 2005-A-0009 (Issued: 1/18/05)	Air Quality and Hazardous Waste	\$165,615.12	\$9,384.88	Y – 1. Biodiesel Fuel Project - \$33,000.00; 2. Applied Recycling Program - \$32,000.00; and 3. Storage Tank Fund Project - \$32,000.00
15.	Conoco Phillips Company, Inc.	New Castle County – Wilmington, DE	Notice of Administrative Penalty Assessment and Order No. 2005-A-0012 and Settlement (Issued: 2/8/05)	Air Quality	\$16,000.00	\$343.00	N
16.	D&B Products, Insulation Division (Multi- Tech, Inc.)	Sussex County – Georgetown, DE	Notice of Administrative Penalty Assessment and Secretary's Order No. 2005-A-0014 (Issued: 2/22/05)	Air Quality	(\$7,500.00) Company requested Hearing; AQM and Company negotiating	(\$1,185.20)	N
17.	Sea Watch International, Ltd.	Kent County – Milford, DE	Notice of Conciliation and Administrative Penalty Order No. 2005-A-0015 (Issued: 2/22/05)	Air Quality	\$24,000.00	\$1,125.65	N
18.	Perdue Farms, Inc.	Sussex County – Bridgeville, DE	Notice of Administrative Penalty Assessment and Secretary's Order No. 2005-A-0016 (Issued)	Air Quality	\$20,000.00	\$1,032.10	N
19.	General Motors Corporation	New Castle County – New Castle, DE	Amended Administrative Penalty Assessment and Secretary's Order No. 2005-A-0022 (Issued: 4/11/05)	Air Quality	\$27,300.00	\$2,320.00	N
20.	Maritrans Operating Company, LP	Sussex County – Big Stone Anchorage	Notice of Conciliation and Secretary's Order No. 2005-A-0027 (Issued: 5/26/05)	Air Quality	N/A	N/A	N

	FACILITY / RESPONDENT/ DEFENDANT	COUNTY AND CITY IN WHICH VIOLATION OCCURRED	ORDER, CIVIL ACTION NUMBER, OR DATE OF SETTLEMENT AGREEMENT	MEDIA / TYPE(s) OF VIOLATIONS	PENALTY AMOUNT PAID	INVESTIGATIVE AND LEGAL COST RECOVERY	ENVIRONMENTAL IMPROVEMENT PROJECT (EIP)
21.	Miao, Michael	New Castle County – Claymont, DE	Notice of Conciliation and Secretary's Order No. 2005-W-0028 (Issued: 5/26/05)	Ground Water	N/A	N/A	N
22.	Valenzano, Marcello	New Castle County – Smyrna, DE	Notice of Conciliation and Secretary's Order No. 2005-W-0032 (Issued: 5/26/05)	Ground Water	N/A	N/A	N
23.	<u>United States and State of Delaware v. Formosa Plastics Corporation Delaware</u>	New Castle County – Delaware City, DE	Civil Action No. 05- 443GMS Filed in U.S. District Court on 6/28/05 for District of DE; Joint action of EPA and DNREC; Complaint and Consent Order	Air and Hazardous Waste	(\$225,000.00* each for U.S. and State plus stipulated penalties to U.S. and State of DE for further violations and future late submissions)	N/A	Y – Company to expend no less than \$842,847 for automating process controls to minimize future releases of vinyl chloride.

TOTAL PENALTIES COLLECTED:				TOTAL COSTS RECOVERED:			
FY02	FY03	FY04	FY05	FY02	FY03	FY04	FY05
\$893,638	\$875,135	\$334,250	<b>\$324,665.12</b>	\$80,017.68	\$36,149.04	\$22,699.46	<b>\$22,776.45</b>
TOTAL PENALTIES PENDING RESOLUTION:				TOTAL COSTS PENDING RESOLUTION:			
FY02	FY03	FY04	FY05	FY02	FY03	FY04	FY05
N/A	N/A	\$418,500	<b>\$232,500.00</b>	N/A	N/A	\$14,374.19	<b>\$1,185.20</b>

\* The penalty for Formosa was not received during FY05 (even though it was filed in 6/2005) as the Court did not enter/approve the Consent Order until 11/2005; therefore is not counted in the total penalties collected for the FY05 time period. It is reflected in the penalties pending column of the above chart.

## **VI. CRIMINAL ENVIRONMENTAL ENFORCEMENT**

The Division of Air and Waste Management Enforcement Section employs twelve fully sworn police officers (“Environmental Officers”) and two civilian employees. This section is the criminal enforcement arm of DNREC and is responsible for enforcing against those individuals and facilities which violate Delaware’s criminal environmental statutes. The section administers criminal enforcement activities for the Divisions of Soil and Water Conservation, Water Resources, and Air and Waste Management

Delaware’s criminal environmental laws establish what conduct is prohibited and what punishment can be imposed for violating those laws. Criminal laws define the degree of intent required for criminal liability. The degree of intent in a criminal case is much greater than the degree of intent needed to prove a civil or administrative action. Environmental Officers are empowered by the Department of Justice to prosecute misdemeanor offenses within the Justice of the Peace Courts. Knowingly and negligently cases are prosecuted by Deputy Attorneys General in the Superior Courts with investigative information provided by the Air and Waste Management Enforcement Section.

The responsibilities of the Enforcement Section are varied. Primarily, the section is responsible for receiving, investigating, and prosecuting criminal complaint referrals from regulators within DNREC and complaints received by citizens.

The section maintains a 24 hour contact line for reporting industrial permitting excursions, pollution events and citizen’s complaints. Information obtained through this number is used by the section to activate the Delaware Environmental Release Notification System.

The unit actively conducts public outreach programs community and governmental entities. Officers routinely visit schools and community associations to discuss environmental issues and enforcement program responsibilities. Outreach activities directed at governmental agencies detail the detection of environmental crimes and hazardous materials safety.

Environmental Officers in the Section are members of the State Emergency Response Team and respond to environmental emergencies and hazardous materials incidents throughout the state on a 24 hour basis.

For more information on the Division of Air and Waste Management Enforcement Section and Criminal Environmental Enforcement information, please go to the following link at DNREC’s website:

[www.dnrec.state.de.us/DNREC2000/Divisions/AWM/EPO/epo.htm](http://www.dnrec.state.de.us/DNREC2000/Divisions/AWM/EPO/epo.htm)

The following are statistics for FY02 through FY05 for the Division of Air and Waste Management Enforcement Section:

**CRIMINAL ENFORCEMENT ACTIONS AND PENALTY STATISTICS**

	<b>Complaints Received</b>	<b>Arrests<sup>1</sup></b>	<b>Criminal Penalties Collected in JP Court</b>	<b>Outreach Hours</b>	<b>Background Investigations</b>
<b>FY05</b>	<b>4,608<sup>2</sup></b>	<b>412</b>	<b>\$21,793.25</b>	<b>219</b>	<b>0<sup>6</sup></b>
<b>FY04</b>	<b>3,760<sup>3</sup></b>	<b>440</b>	<b>\$24,435.00</b>	<b>193</b>	<b>63</b>
<b>FY03</b>	<b>6,052<sup>4</sup></b>	<b>462</b>	<b>\$16,478.00</b>	<b>198</b>	<b>86</b>
<b>FY02</b>	<b>6,242<sup>5</sup></b>	<b>327</b>	<b>\$16,705.00</b>	<b>272</b>	<b>279</b>

**Note:**

1. Arrests are defined as summonses/tickets issued by Environmental Officers. Arrest totals include Voluntary Assessments issued for unclassified misdemeanors.
2. FY05 Complaints Received by Division: Air & Waste 3,371; Water Resources 1,070; Soil and Water 58
3. FY04 Complaints Received by Division: Air & Waste 2,580; Water Resources 1,070; Soil and Water 110
4. FY03 Complaints Received by Division: Air & Waste 3,963; Water Resources 1,899; Soil and Water 190
5. FY02 Complaints Received by Division: Air & Waste 5,178; Water Resources 889; Soil and Water 175
6. Beginning in FY05, the responsibility for performing background investigations for permit applicants was transferred from the Environmental Officers to regulatory program personnel.

## VII. ENVIRONMENTAL IMPROVEMENT PROJECTS AND THE DNREC COMMUNITY ENVIRONMENTAL FUND

### A. Environmental Improvement Projects

In settlements of environmental enforcement cases, DNREC will require the alleged violators to achieve and maintain compliance with state environmental laws and regulations and to pay an administrative or civil penalty. To further DNREC goals to protect and enhance public health and the environment, in certain instances environmentally beneficial projects, or Environmental Improvement Projects (EIPs), may be included in the settlement. The primary purpose of using EIPs is to encourage and obtain environmental and public health protection and improvements that may not otherwise have occurred without the settlement incentives of an EIP.

In settling enforcement actions, DNREC requires alleged violators to promptly cease the violations and, to the extent feasible, remediate any harm caused by the violations. DNREC also seeks substantial monetary penalties in order to deter noncompliance. Without penalties, companies would have an incentive to delay compliance until they are caught and ordered to comply. Penalties promote environmental compliance and help protect public health by deterring future violations by the same violator and deterring violations by other members of the regulated community. Penalties help ensure a level playing field by ensuring that violators do not obtain an unfair economic advantage over their competitors who made the necessary expenditures to comply on time. Penalties also encourage companies to adopt pollution prevention and recycling techniques, so that they minimize their pollutant discharges and reduce their potential liabilities.

Alleged violators are sometimes offered the option of funding an environmental improvement project in lieu of a portion of a monetary penalty. Environmental Improvement Projects are a method to achieve environmental benefit while inspiring environmental and community responsibility by parties subject to enforcement actions. DNREC encourages the use of EIPs. While penalties play an important role in environmental protection by deterring violations and creating a level playing field, EIPs can play an additional role in securing significant environmental or public health protection and improvements. EIPs may not be appropriate in settlement of all cases, but they are an important part of DNREC's enforcement program. EIPs may be particularly appropriate to further the objectives in the statutes DNREC administers and to achieve other policy goals, including promoting pollution prevention.

Environmental Improvement Projects are defined as environmentally beneficial projects which a defendant/respondent agrees to undertake in settlement of an enforcement action, but which the defendant/respondent is not otherwise legally required to perform.

The key parts of this definition are elaborated on below:

- **“Environmentally beneficial”** means a EIP must improve, protect, or reduce risks to public health, or the environment at large. While in some cases an EIP may provide the alleged violator with certain benefits, there must be no doubt that the project primarily benefits the public health or the environment.

- **“In settlement of an enforcement action”** means: 1) DNREC has the opportunity to help shape the scope of the project before it is implemented; and 2) the project is not commenced until after the Agency has identified a violation (e.g., issued a Notice of Violation, Administrative Order, or Complaint).

- **“Not otherwise legally required to perform”** means the EIP is not required by any federal, state or local law or regulation. Further, EIPs cannot include actions that the defendant/respondent may be required to perform: as injunctive relief in the instant case; as part of a settlement or order in another legal action; or by state or local requirements. EIPs may include activities that the defendant/respondent will become legally obligated to undertake two or more years in the future. Such “accelerated compliance” projects are not allowable, however, if the regulation or statute provides a benefit (e.g., a higher emission limit) to the defendant/respondent for early compliance. Also, the performance of an EIP reduced neither the stringency nor timelines requirements of State environmental statutes and regulations. Of course, performance of an EIP does not alter the defendant/respondent’s obligation to remedy a violation expeditiously and return to compliance.

### **EIP Examples:**

A listing of EIPs associated with enforcement actions can be found in the right-hand column of the summaries listed in Section V of this report. A few examples of EIPs from FY05 are as follows:

- Division of Air and Waste Management - Air Quality Management Section and Hazardous Waste Management – As the result of a settlement with Motiva Enterprises, LLC, the company agreed to fund the following projects: 1. Biodiesel Fuel Funding Project in the amount of \$33,000 to offset costs of DNREC utilizing biodiesel fuel within its fleet; 2. Recycling Public Advisory Council (“RPAC”) – Funding for RPAC in the amount of \$32,000.00 to offset a portion of Motiva’s penalty (in the same amount); and 3. Storage Tank Fund Project in the amount of \$32,000.00 to fund and establish a storage tank database in the Tank Management Branch. Again, Motiva is contributing this funding to offset a portion of Motiva’s penalty through the settlement.
- Division of Air and Waste Management – Air Quality Management Section and Hazardous Waste Management – In a Consent Order with DNREC and U.S. EPA, Formosa Plastics Corporation agreed to expend no less than \$842,847.00 for automating its facility process controls to minimize future releases of vinyl chloride.
- Division of Water Resources - Surface Water Management – In a settlement with USFilter Operating Services, Inc., the company agreed to fund two waterway cleanup efforts. USFilter donated \$10,000 to the Red Clay Creek Cleanup Project and \$15,000 to the Christina River Cleanup.

## **B. The DNREC Community Environmental Project Fund**

The Community Environmental Penalty Fund (CEPF, or “Fund”) was established by House Bill 192. The Fund consists of 25% of all collected penalty moneys collected by the Department of Natural Resources and Environmental Control (DNREC) after the effective date of the Act (February 3, 2004). Moneys from this Fund are available for Community Environmental Projects (“projects”). The Fund is administered by DNREC. Since the Fund’s inception in February 2004, (through June 30, 2005) there has been a total of \$224,135.65 dispersed to communities for environmental projects.



According to HB 192, project eligibility has two basic criteria:

1. Environmental Enhancement - *Eligible projects include those undertaken for the purpose of effecting pollution elimination, minimization, or abatement, or improving conditions within the environment so as to eliminate or minimize risks to human health. Projects designed to enhance natural resources for the purposes of improving indigenous habitats or the recreational opportunities of the citizens of Delaware are also eligible.*
2. Community Effected – *Eligible projects must benefit the same community where the infraction(s) or violation(s) occurred that resulted in the civil or administrative penalty.*

Eligible applicants include Delaware's civic and community organizations, non-profit organizations, educational institutions, counties, municipal governments, state agencies and quasi-state agencies that represent the community where the infraction(s) or violation(s) occurred that resulted in the civil or administrative penalty.

Preference is given to projects that support the primary goals and objectives of the DNREC. Preference is also given to projects that have demonstrated community participation and support (e.g., volunteer hours, matching funds, donated in-kind services). While not required, projects that involve partnerships with other organizations, showing broad-based support are encouraged.

The Application Form for the Community Environmental Project Fund can also be found at <http://www.dnrec.state.de.us/CIAC>. Any questions regarding projects that have been funded or to submit applications can be directed to the Community Involvement Advisory Council (CIAC) at the following address:

Attention: Karen Garrison, CIAC Administrative Support  
Office of the Secretary  
Department of Natural Resources and Environmental Control  
89 Kings Highway  
Dover, DE 19901  
(302) 739-9000  
[Karen.garrison@state.de.us](mailto:Karen.garrison@state.de.us)

Some examples of Community Environmental Projects that have been funded are:

Delaware City Community Park District – This was a project to replace aging playground equipment at Dragon Run Park. The metal equipment was installed over forty years ago and is dangerous by current safety standards. The total project cost was \$45,906.62 with twenty five percent of the total, \$11,475.91 coming from the CEPF. The balance of the funding came from a grant from the Delaware Land and Water Conservation Trust Fund.

The First State Community Action Agency – This agency submitted two applications for community clean-up projects in Dover. The projects were the Woodville and Terry Drive Community Clean Up and the Capitol Park Community Clean Up. The two clean up project expenses included dumpster rental, delivery of debris to the landfill and associated tipping fees. A total of \$3850 was provided for these projects.

## **VIII. APPENDIX OF SPECIFIC PROGRAM INFORMATION**

Please note that the following specific program information has been gathered from both the “traditional” enforcement programs as well as the “non-traditional” compliance assistance programs. As such, some programs may have information noted that other programs do not. For example, the Air Quality Management section routinely conducts on-site compliance inspections at its regulated facilities to detect violations; on the other hand, the Pollution Prevention program conducts on-site inspections to determine how the regulated party can reduce pollution at its facility.

### **Programs Covered:**

1. Air Quality Management
2. Solid Waste Management
3. Hazardous Waste Management
4. Underground Storage Tank Management
5. Aboveground Storage Tank Management
6. Surface Water Discharges Program and Industrial Stormwater Program (NPDES)
7. Ground Water Discharges Program
8. Sediment & Stormwater Program
9. Accidental Release Prevention
10. Wetlands and Subaqueous Lands
11. Beach Preservation Program
12. Brownfields, HSCA Enforcement and Voluntary Cleanup Programs
13. HSCA Post Cleanup Operation and Maintenance (O&M) Inspections
14. Pollution Prevention Program
15. Small Business Assistance Program
16. Boiler Safety Program

## **Air Quality Management**

**Year Program Began: 1966**

**Purpose/Mission:** The Air Quality Management (“AQM”) Section within the Division of Air and Waste Management implements the State of Delaware “Regulations Governing the Control of Air Pollution,” which satisfies the requirement of 7 Del. C. Chapter 60 to report and obtain approval for equipment which has the potential to discharge air contaminants into the atmosphere.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	897	1033	1144	1676	The numbers listed for both the FY02 and FY03 Universe are not complete. These numbers were based upon permit billings, which are compiled in the middle of the fiscal year. Therefore, this may exclude new sites or permits issued subsequent to the billing being compiled. Please note that FY05 numbers were generated from AQM’s new permit tracking System and more accurately reflect the program universe as compared to the previous Fiscal Years which were generated from billings. Additionally, totals generated for each Fiscal Year include the following Air Quality Management programs: Title V, Synthetic Minors, Natural Minors, Registrations, Asbestos, Dry Cleaners, and Delivery Vessels.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	11	10	10	10	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	Yes	Yes	No off-site record reviews for AQM Registrations or Dry Cleaners; all other program areas conduct off-site record reviews.
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	524	576	1888	1205	Numbers for AQM off-site reviews performed during FY02 and FY03 include rounded/estimated amounts as not all programs gathered these types of statistics. Asbestos program information that was not collected previously is included for FY04. This number does not include the delivery vessel information as it could not be calculated.
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	52	30	35	20	Numbers for FY02 include letters relating to stipulated penalties owed. Numbers for FY03 are lower than FY02 as issues at General Chemical and Sunoco were resolved via a Consent Order. Please note that some NOV’s for violations that occurred during FY04 and FY05 may still be awaiting issuance.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	18	51	15	9	This number for FY03 is high, resulting from problems at General Chemical. Please note that some enforcement actions for violations that occurred during FY04 and FY05 may still be awaiting issuance.
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	530	380	544	424	FY03 numbers are smaller as dry cleaner inspections are conducted on a calendar year basis and the 2003 calendar year inspections were conducted at the end of 2003 and will not show up until State FY04. Also, in CY2002, the Motiva Terminal had every truck that entered the facility inspected with amounted to approximately 50 inspections. FY05 total does not include delivery vessel information.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	47	59	55	71	FY02 data is not complete. Tracking of this information was significantly improved in FY03. The totals include both natural minor and registration compliance monitoring activities combined.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	24	16	35	28	Please note that some NOV's for violations that occurred during FY04 and FY05 may still be awaiting issuance.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	27	4	26	18	FY02 numbers include 12 truck inspections that were turned over to the Environmental Officers for investigation. Asbestos program information that was not collected previously is included for FY04. Please note that some enforcement actions for violations that occurred during FY04 and FY05 may still be awaiting issuance.
<b>11. Does this program have classifications for higher level violations?</b>	Yes	Yes	Yes	Yes	High Priority Violations only for: Title V, Synthetic Minors, and Asbestos.
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See Comments	See Comments	See Comments	See Comments	The AQM Section provides pre-permit application meetings, phone calls, pre and post inspection meetings, regulatory interpretation guidance, and workshops for Asbestos and Dry cleaning facilities.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	See Comments	See Comments	AQM does not currently gather these statistics for all of its programs.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	Environmental Officers were utilized for all AQM programs with the exception of dry cleaners.
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	See Comments	See Comments	For FY02 through FY04, it should be noted that the staff of the Engineering and Compliance Branch (with the exception of those dedicated to Asbestos, Dry Cleaners, and Vapor Balance) split their time between the Title V Program, the Synthetic Minor Program, the Natural Minor Program, and the Registration Program. Each individual's workload for each program is based upon his or her experience level and Branch needs. Each employee is responsible for not only conducting compliance activities (inspections, enforcement, etc.) but also writing permits for the facilities. Each employee is assigned a certain number of facilities and is responsible for conducting all of the activities at the facility. In FY05, the Asbestos, Dry Cleaners, and Vapor Balance programs moved to a new group in the Planning branch called the Area Source Group.

## **Solid Waste Management**

**Year Program Began: 1974**

**Purpose/Mission:** Delaware's Solid Waste Management program implements solid waste compliance activities and enforcement at the sites of solid waste generators and permitted facilities such as landfills, transfer stations, materials recovery and thermal recovery facilities and at approved recycling and composting sites. The solid waste program also implements compliance oversight and enforcement at infectious waste generator sites and infectious waste management facilities. Statewide program oversight and enforcement is attained through the application of regulatory, permitting and enforcement authorities within 7 Del. C. Chapter 60 and the Delaware Regulations Governing Solid Waste.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	454	468	431	486	The universe includes active solid waste management facilities, beneficial use/recycling approvals and permitted solid waste transporters. FY02 and 03-universe count included non-active recycling approvals.
<b>2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	2.0	2.0	2.0	2	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	11	17	14	15	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?</b>	2	6	1	8	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	1	2	0	0	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	21	23	30	25	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	0	2	0	0	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	6	6	6	1	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	0	1	1	0	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	See comments	See comments	Compliance Assistance and outreach to permit applicants; educational materials such as checklists to assist in the permitting process; on-site meetings; and telephone contacts.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See comments	See comments	See comments	See comments	Program does not currently gather these statistics
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	
<b>15. Unique Aspects of this program</b>	N/A	N/A	N/A	N/A	

## **Hazardous Waste Management**

**Year Program Began: 1980**

**Purpose/Mission:** Delaware’s hazardous waste management program, authorized by the United States Environmental Protection Agency (EPA), implements statewide hazardous waste compliance activities and enforcement through the application of regulatory, permitting and enforcement authorities contained within 7 Del. C., Chapters 60 and 63 and *the Delaware Regulations Governing Hazardous Waste* (DRGHW). As an authorized state, Delaware implements its program in a manner consistent with EPA’s, including addressing enforcement actions consistent with EPA’s “1990 RCRA Civil Penalty Policy” (RCPP) and “Hazardous Waste Civil Enforcement Response Policy of March, 1996” (ERP). These policies provide guidance on timely and appropriate enforcement responses, escalation of enforcement actions for lack of compliance achievement, and calculation of gravity based penalties.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	1438	1444	1395	1427	The universe includes active permitted facilities, large quantity, small quantity, and conditionally exempt small quantity generators and permitted hazardous waste transporters.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	3.5	3.5	4.5	4.5	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	6	9	9	6	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	1	0	0	0	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	1	0	0	0	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	67	48	71	74	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	1	1	0	0	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	13	10	17	24	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	1	2	2	0	

Program Information	FY02	FY03	FY04	FY05	Comments
<b>11. Does this program have classifications for higher level violations?</b>	Yes - 2	Yes - 0	Yes - 2	Yes - 2	In FY04 and continuing into FY05, two sites were identified as Significant Non-Compliers ("SNC"). The designation of SNC is not attached to violations, but rather to a site/facility. Determining if a site is a SNC is based on several factors, including if violations resulted in human exposure to hazardous waste; if the violations substantially deviate from the permit, order, regulatory requirements; or inspections by Environmental Officers.
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	See comments	See comments	Daily staffing of an information helpline; providing training/workshops addressing compliance requirements, educational materials to assist with explaining requirements; fact sheets for commonly asked questions; onsite compliance assistance visits; auto repair and auto body sector classroom instruction on hazardous waste management; waste minimization training and training other DNREC staff regarding hazardous waste and used oil management.
<b>13. How many compliance assistance contacts has the program made each year?</b>	250	108	18	43	These totals do not include telephone, mail, or e-mail contacts. Outreach to high school students training in automotive repair not offered in FY04.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	
<b>15. Unique Aspects of this program</b>	See comments	See comments	See comments	See comments	The hazardous waste inspection program is conducted through unannounced inspections at the sites of generators and facilities. During FY05, at the time of first unannounced inspection 68 % of inspected sites were found to be in compliance. <sup>†</sup> This rate includes all on-site inspections regardless of generator category or permitted status. For those found in noncompliance, enforcement actions were taken. The average number of days required for these sites to return to compliance was 35 days. <sup>††</sup> In FY04 these number were 60% found to be in compliance <sup>†</sup> with an average of a 34 day <sup>††</sup> return to compliance rate ( <sup>†</sup> This rate cannot infer compliance at uninspected sites.) ( <sup>††</sup> This rate does not include those sites referred to the Office of the Attorney General/Department of Justice.)



## Underground Storage Tank Management

Year Program Began: 1985

**Purpose/Mission:** The Underground Storage Tank (UST) program issues new tank installation and corrective action work plan approval letters, issues vapor recovery permits, collects annual fees, oversees the permanent closure of underground storage tanks, conducts or oversees the cleanup of leaking underground storage tank sites, handles requests for information on registered and regulated underground storage tank sites, and maintains an extensive database on UST, leaking UST and vapor recovery sites. The UST program ensures compliance with both the UST and vapor recovery federal and state laws and regulations to prevent releases from operating UST systems. This includes ensuring the proper operation and maintenance of leak detection, corrosion protection, overfill, spill, and vapor recovery systems and ensuring that a financial responsibility mechanism is in place at all operating and temporarily out of service UST facilities. The UST program also maintains and enforces a certification program for UST contractors conducting UST removal, retrofit, lining and installation work at UST sites.

Program Information	FY02	FY03	FY04	FY05	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	3728	3730	3772	3725	This number includes 44 sites where vapor recovery permits were issued.
2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).	6.0	6.0	6.0	6.0	
3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)	No	No	No	No	
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	N/A	N/A	N/A	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?	N/A	N/A	N/A	N/A	
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	N/A	N/A	N/A	N/A	
7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	116	118	132	124	These numbers do not include UST closure inspections, retrofit and new UST installation inspections, or inspections by the Environmental Protection Officers.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	110	111	120	93	UST regulations do not require certain records be kept on-site. The number above includes request for information letters which request additional records and information not at the facility at the time of the inspection needed to complete a compliance assessment.
9. How many on-site activities resulted in an NOV being issued?	14	7	13	14	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	1	0	0	1	Does not include enforcement actions pending or currently under legal review.
11. Does this program have classifications for higher level violations?	No	No	No	No	

*Underground Storage Tank Management Program, Con't.*

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See Comments	See Comments	See Comments	See Comments	Quarterly newsletter, written guidelines, on-site meetings, on-site training, telephone and electronic assistance. The UST program has offered trade show and seminar public outreach activities frequently throughout the history of the program.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	See comments	See Comments	The UST Program's quarterly newsletter, <i>Think Tank</i> , is mailed to over 2000 contacts including all UST owners, operators, contractors and consultants in the UST database. One-on-one compliance assistance contacts are not currently tracked.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	See comments	See Comments	Request for information letters in the UST program are often used to acquire records or documentation not kept at the facility location. As a result, potential violations are noted in the letter but never become actual violations and thus do not result in a NOV or other type of enforcement action.

## **Aboveground Storage Tank Management**

**Year Program Began: 2002**

**Purpose/Mission:** The aboveground storage tank (AST) program will issue approval letters for new AST installations and corrective action work plan approval letters, issue vapor recovery permits, collect annual fees, oversee the permanent closure of ASTs, conduct or oversee the cleanup of leaking AST sites, handle requests for information on registered and regulated AST sites, and maintain a database on AST and leaking AST sites. The AST program will ensure compliance with the state laws and regulations to prevent releases from operating AST systems. This will include ensuring the proper operation and maintenance of leak detection, corrosion protection, overfill, and spill prevention systems and ensuring that a financial responsibility mechanism is in place at all operating and temporarily out of service AST facilities.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	3714	3790	3503	3481	The AST program was enacted in 2002 and program development is continuing.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	N/A	3	1	1	The AST Regulations were promulgated in June 2004. Currently there is one technical staff member devoted to compliance activities, program development, regulated community education, on-site inspections and new installations.
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	N/A	N/A	0	16	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	0	15	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	0	0	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	0	0	
<b>11. Does this program have classifications for higher level violations?</b>	N/A	N/A	No	No	

Program Information	FY02	FY03	FY04	FY05	Comments
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	See Comments	See Comments	See Comments	This program has started compliance assistance efforts with articles in the <i>Think Tank</i> Quarterly Newsletter. Additional compliance assistance will be provided through the Quarterly Newsletter, on-site assistance, workshops and training sessions and meetings with the regulated community.
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	N/A	N/A	
14. Did the program utilize Environmental Officers for criminal investigations?	N/A	N/A	No	No	
15. Unique Aspects of this program	See Comments	See Comments	See Comments	See Comments	This is a state program with no federal requirements associated with it. The program will have more compliance and enforcement information in future years after full implementation of the program.

## **Surface Water Discharges Program and Industrial Stormwater Program (NPDES)**

**Year Program Began: 1973**

**Purpose/Mission:** To protect and enhance the quality of Delaware's waters by regulating discharges into surface waters.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	62	60	59	58* 272**	* = Individual NPDES ** = General stormwater
<b>2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	3.0	3.0	3.0	2.0	Environmental Compliance Specialist and Senior Environmental Compliance Specialist for NPDES Surface Water. FTE inspector positions for industrial storm water is zero. These inspections are performed by the Surfacewater inspectors.
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	See comments	See comments	See comments	See comments	The NPDES program does not currently gather these statistics. Monthly Monitoring Reports (submitted by the facilities) are reviewed by the program as they are received.
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?</b>	See comments	See comments	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	See comments	See comments	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	651	632	805	468* 116**	* = Individual NPDES **= Stormwater
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	See comments	See comments	See comments	See comments	The NPDES program does not currently gather these statistics.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	3	1	2	1	No enforcement actions for the time period for Industrial Storm water.
<b>11. Does this program have classifications for higher level violations?</b>	See Comments	See Comments	See comments	See comments	Although the program has classifications for higher level violations (significant non-compliance) there has only been one major facility in significant non-compliance (as defined by EPA) in the last 28 quarters (seven years).

Program Information	FY02	FY03	FY04	FY05	Comments
12. What type of compliance assistance is offered to the program's regulated community?	See Comments	See Comments	See comments	See comments	No formalized compliance assistance offered by the program.
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	N/A	N/A	No formalized compliance assistance offered by the program
14. Did the program utilize Environmental Officers for criminal investigations?	No	No	No	No	
15. Unique Aspects of this program	N/A	N/A	N/A	N/A	

## Ground Water Discharges Program

**Year Program Began: 1968**

**Purpose/Mission:** The Ground Water Discharges program is responsible for overseeing all aspects of the siting, design and installation of on-site wastewater treatment and disposal systems (septics). This is a three step process which includes the site evaluation, the design/permit application, and the construction/installation of the system. The program also regulates holding tanks, spray facilities, and innovative and alternative systems.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	3123	3101	3240	2928	FY05 numbers indicate the number of new, replacement and repair permits issued for on-site systems for the fiscal year. The current estimate of the total number of on-site wastewater treatment and disposal systems in operation state-wide is 70,000 to 80,000. (982 construction inspections were made on 2,640 systems installed for FY05)
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	4.0	4.0	11.0	9.0	FY05 FTE Breakdown: <b><u>Small Systems Branch</u></b> - <b>Dover Office</b> - 1 FTE. 60% permit review 40% inspections; Dover Office was understaffed by 2FTEs for over ½ year <b>Georgetown Office</b> - 3 FTE 60% permit review 40% inspections; 1 District hire annually for holding tank program only 70% inspections 30% office, 1 District hire annually 75% inspections 25 % field (inland bays only) *note – one less FTE for Holding Tanks Program because of reduction in Federal funding. <b><u>Large Systems Branch</u></b> - <b>Dover Office</b> - 2 FTE 50% Office 50% inspections <b>Georgetown Office</b> - 1 FTE 60% inspections 40% inspections
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	1238	1249	1301	1,313	FY05 Breakdown: 452 Holding tank inspections 260 Alternative system inspections (seasonal help hired to achieve this number) 200 Spray site inspections 243 Large system inspections 158 Compliance inspections on existing small on-site systems 99 with Voluntary Compliance Program in the Inland Bays Watershed; 58 Compliance inspections by referral from Enforcement Section

Program Information	FY02	FY03	FY04	FY05	Comments
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	See comments	See comments	This information is not currently tracked, but will be in the future.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	51	15	23	51	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	15	8	1	5	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	See comments	See comments	Low interest loan programs through the program's Financial Assistance Branch; <i>Simply Septics</i> publication; Delaware On-Site Wastewater Recycling Association; outreach/presentations in schools.
<b>13. How many compliance assistance contacts has the program made each year?</b>	400	350	400	1,500 plus	Numbers based on workshop attendees, classes provided by staff, Delaware On-Site Wastewater Recycling Association annual Conference, The Delaware State Fair, Science Alliance, presentations to the Real Estate and Homeowners Associations.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	
<b>15. Unique Aspects of this program</b>	N/A	N/A	N/A	N/A	



## **Sediment & Stormwater Program**

**Year Program Began: 1991**

**Purpose/Mission:** To provide for the management of stormwater runoff from land development to the extent possible to minimize adverse impacts to state lands and waters.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	1031	1232	1433	595	The FY05 number reflects only the plan approval issued during this fiscal year. It does not necessarily reflect the number of regulated sites (active sites). Additionally, the numbers listed for FY02 through FY04 were based on estimations from those time periods. FY05 numbers reflect actual reporting information for the program through its delegated agencies.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	12	12	12	19	Through this program, DNREC delegates inspection authority to authorized/delegated agencies at the local level. Those local agencies, through on-site inspections, refer violations to DNREC for the appropriate enforcement action. Of the 19 FTEs, only 1 FTE is an actual DNREC employee, while the other 18 FTEs are housed at the local agency levels.
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	Yes	Yes	This program utilizes self-policing inspections. Many agencies under DNREC’s umbrella are required to submit their own inspection reports to DNREC or its delegated agencies for review.
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	800	1000	1200	4,600	The FY02, FY03, and FY04 numbers are based on estimates from averaging statistics in other reports. FY05 numbers reflect actual reporting information. The FY05 compliance monitoring numbers reflect the number of off-site compliance monitoring activities conducted (4,600) and were performed by Certified Construction Reviewer (CCR) inspectors.
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	0	0	0	0	In this program, the off-site record review activity would not by itself trigger the issuance of a Notice of Violation. The agency requiring the inspection would conduct an on-site inspection if a problem was detected through the off-site records review.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	0	0	0	0	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	3500	4000	4500	11,000	The FY02, FY03, and FY04 numbers are based on estimates from averaging statistics in other reports. FY05 numbers reflect actual reporting information. The number of on-site compliance monitoring activities (11,000) represents the number of inspections performed by the delegated agencies and 1 FTE DNREC inspector for state projects.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	See comments	See comments	The program does not currently gather these statistics.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	7	6	7	13	This number represents NOV’s issued by the Department only. This does not represent all non-compliance issues as some Delegated Agencies may never refer a site to the Department as they have other mechanisms to achieve compliance.

Program Information	FY02	FY03	FY04	FY05	Comments
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	2	1	3	6	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	See comments	See comments	This program conducts contractor certification training and certified construction reviewer training.
<b>13. How many compliance assistance contacts has the program made each year?</b>	383	450	418	666	
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	Environmental Officers investigate sediment discharge complaints under the authority of 7 <u>Del. C.</u> Chapter 60 and Chapter 40.
<b>15. Unique Aspects of this program</b>	See comments	See comments	See comments	See comments	The sediment and stormwater program is delegated locally through seven agencies. Those agencies all generate inspection reports. DNREC, for the most part, handles issuing enforcement actions when warranted. The FY05 figures in this program profile represent both tabulations from the agency reports and DNREC information.

## Accidental Release Prevention

Year Program Began: 1990

**Purpose/Mission:** The purpose of this program is to protect the lives and health of citizens living and working near facilities handling extremely hazardous substances.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	105	105	112	114	
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	3	3	3	2.5	Unable to replace lead engineer due to funding shortage
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	Yes	Yes	Yes	Yes	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	1	2	30	93	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	0	0	0	0	If there are questions regarding the facility’s risk management plan when it is submitted for review, the group conducts an on-site inspection. No enforcement is taken until there has been an on-site inspection.
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	0	0	0	0	If there are questions regarding the facility’s risk management plan when it is submitted for review, the group conducts an on-site inspection. No enforcement is taken until there has been an on-site inspection.
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	29	24	42	20	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	2	0	0	0	Note: FY04 total reflected 30 in last year’s annual report, which was a typographical error and has been corrected in this report.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	2	0	1	0	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	2	0	1	0	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See comments	See comments	See comments	See comments	Workshops, public hearings, on-site consultations, on-site presentations, public presentations, visits to our office, and telephone consultations.

Program Information	FY02	FY03	FY04	FY05	Comments
<b>13. How many compliance assistance contacts has the program made each year?</b>	8	8	23	10	The program does not currently track number of on-site consultations, visits to our office, telephone contacts, or number of attendees at outreach activities. The number of consultations was higher in FY04 because Risk Management Plan Submissions were due in June 04. These submissions re-occur every five years.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	Yes	No	The program has criminal enforcement authority but did not use it for FY02, FY03 or FY05.
<b>15. Unique Aspects of this program</b>	See comments	See comments	See comments	See comments	The Delaware Accidental Release Prevention Regulation is a performance based regulation. The regulation outlines the requirements and the facility implements the prevention program considering the complexity of the operation, the amount of extremely hazardous substance involved, and the risk. Inspections are subjective and rely heavily on the expertise of the inspector. The program makes extensive use of negotiating skills to achieve compliance.

## Wetlands and Subaqueous Lands

**Year Program Began: 1973**

**Purpose/Mission:** To implement Delaware's Wetlands Act, Subaqueous Lands Act, and Water Quality Certification Regulations.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	350	400	510	421	These numbers are estimates as the program does not currently gather these statistics.
<b>2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	0.5	0.5	0.5	0.5	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?</b>	N/A	N/A	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	N/A	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	125	137	165	100	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See comments	See comments	15	14	This program did not gather statistics for this time period.
<b>9. How many on-site activities resulted in an NOV being issued?</b>	See comments	See comments	1	4	This program did not gather statistics for this time period.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	7	3	1	2	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	

Program Information	FY02	FY03	FY04	FY05	Comments
12. What type of compliance assistance is offered to the program's regulated community?	N/A	N/A	N/A	N/A	
13. How many compliance assistance contacts has the program made each year?	N/A	N/A	N/A	N/A	
14. Did the program utilize Environmental Officers for criminal investigations?	Yes	Yes	Yes	Yes	
15. Unique Aspects of this program	N/A	N/A	N/A	N/A	

## **Beach Preservation Program**

**Year Program Began: 1972**

**Purpose/Mission:** The purpose of the Beach Preservation program is to enhance, protect and preserve public and private beaches of the State, to mitigate beach erosion and to minimize storm damage through the regulatory program.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	161	202	166	125	Please note: The program regulates all shoreline properties along the Atlantic Ocean coast, between the Delaware/Maryland state line, and Pickering Beach, Delaware. These numbers represent the number of permits and approvals for beach construction in the time periods noted.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	2	2	2	2	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	N/A	N/A	
<b>7. How many on-site compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	161 (Also See comments)	202 (Also See comments)	166 (Also see comments)	125	In addition to the inspections performed for permit applicants, the program conducts on-site compliance inspections twice weekly along the entire shoreline. As part of the inspections the program does drive-by inspections of each property to make sure that there are no unauthorized construction activities. For those properties that have active approvals or permits, the program visits the sites to ensure compliance with applicable rules and regulations.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	35	16	33	39	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	N/A	N/A	NOVs are not issued under this program; only Letters of Warning or Deficiency.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	1	0	0	0	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	

Program Information	FY02	FY03	FY04	FY05	Comments
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See Comments	See Comments	See Comments	See Comments	The program meets with property owners on a regular basis to inform them of what they need to do to bring their violations into compliance. We occasionally hold workshops regarding program requirements and provide educational materials.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	See Comments	See Comments	Although this program does not currently gather these statistics, program staff speaks with approximately 20 property owners, surveyors, developers, or engineers, etc. per day, through phone calls, on-site visits, and scheduled meetings. Additionally, other meetings, calls, etc., relating to dune and beach preservation, construction and maintenance activities are also handled through the program.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	No	No	
<b>15. Unique Aspects of this program</b>	N/A	N/A	N/A	N/A	



## **Brownfields, HSCA Enforcement and Voluntary Cleanup Programs**

**Year Program Began: 1990**

**Purpose/Mission:** The mission of this program is to protect public health, welfare and the environment by investigation and remediating hazardous substance release sites and promoting reuse of such sites.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	See Comments	See Comments	633	662	Total number of Brownfields, HSCA Enforcement and Voluntary Cleanup Program sites: 594 as of Jan. 2004. Total number of Brownfields, HSCA Enforcement and Voluntary Cleanup Program sites: 662 as of Jan. 2006.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	20	20	21	24	Total number of technical compliance staff.
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	N/A	N/A	Yes	Yes	Beginning in FY04 Operations & Maintenance program used off-site compliance monitoring . Please see the next chart, below, which details this work. Additionally periodic site evaluation audits are conducted in order to evaluate consultant performance in conducting field work at VCP and BF sites.
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	N/A	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	N/A	N/A	N/A	N/A	
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	N/A	N/A	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	N/A	N/A	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	N/A	N/A	
<b>11. Does this program have classifications for higher level violations?</b>	N/A	N/A	N/A	N/A	
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comments	See Comments	See Comments	See Comments	One-on-one meetings, guidance documents, preparation and review of scope of work documents relating to environmental investigations and cleanup activities, and workshops relating to regulatory requirements.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	See Comments	See Comments	DNREC contacts responsible parties and their consultant on a regular basis through meetings, correspondence and work shops to assisting responsible parties and their consultants to comply with HSCA , VCP and Brownfields requirements.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	Yes	Yes	Yes	Yes	
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	See Comments	See Comments	Through the Brownfields and Voluntary Cleanup programs DNREC works cooperatively with developers and responsible parties to ensure program requirements are met. In additions, DNREC is in the process of increasing financial incentives and funding in the form of grants, loans, tax incentives and other various forms of financial resources, as well as technical assistance and liability protection for the cleanup and development of Brownfield sites in the State of Delaware.

## **HSCA Post Cleanup Operation and Maintenance (O & M) Inspections**

**Year Program Began: HSCA 1990, O & M Inspection Program began 2003**

**Purpose/Mission:** The mission of the HSCA program is to protect public health, welfare and the environment by mitigating risks posed by the past releases of hazardous substances to the environment. The O & M inspection program has been put in place to ensure that long term controls are in place to ensure that the cleanup actions completed at the site remain protective of human health and the environment over time.

<b>Program Information</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	70	89	This is a new inspection program which was initiated in November 2003
<b>2. How many Full Time Equivalent (“FTE”) inspector positions are employed by the program? (FTEs are rounded up to next whole number if over 0.5)</b>	1.5	1.5	This work has been assigned as an additional duty to an Environmental Engineer currently on staff. It has taken about 30% of his time. DNREC SIRB also employees a part-time (30 hours per week) seasonal EEI to assist in implementing this program.
<b>3. Does the program use off-site compliance monitoring activities to detect violations?</b>	Yes	Yes	DNREC generally does not use the term “violations” but rather refers to findings that require action as “not in compliance” items since the performance standards that need to be met are usually site specific per an operation and maintenance plan and/or final plan of remedial action for each individual site.
<b>4. If yes to 3 above, how many off-site activities were conducted by the program?</b>	43	38	All of the inspections involved off-site coordination activities to include a visual inspection of the site. Every inspection begins with a detailed file review by the inspector to determine what items are required and need to be inspected at each site.
<b>5. How many off-site activities resulted in a Notice of Violation being issued?</b>	0	0	
<b>6. How many off-site activities resulted in an enforcement action above a Notice of Violation (“NOV”) being issued?</b>	0	0	Each owner/operator of the property was sent a letter describing the findings of the inspection. If deficiencies were found they were noted and the owner/operator was told what they needed to do to return to compliance and a timeframe to do it in. In few cases, deficiencies were verbally communicated to the owner/operator and letters will follow the upcoming inspections at these sites.
<b>7. How many on-site compliance monitoring activities were performed by the section?</b>	43	38	21 facilities were in compliance at the time of the inspection.
<b>8. How many on-site activities resulted in a Notice of Deficiency or Letter of Warning?</b>	35	17	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	0	0	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	0	0	
<b>11. Does this program have classifications for higher level violations?</b>	See Comment	See Comment	If deficiencies are not corrected then DNREC may pursue additional action under HSCA authorities.
<b>12. What type of compliance assistance is offered to the program’s regulated community?</b>	See Comment	See Comment	The inspection and subsequent inspection reports are considered compliance assistance activities. In addition workshops and guidance documents have been distributed to interested parties involved in HSCA activities.
<b>13. How many compliance assistance contacts has the program made each year?</b>	43	38	

Program Information	FY04	FY05	Comments
14. Did the program utilize Environmental Officers for referral of criminal investigations?	No	No	
15. Unique Aspects of this program	See Comment	See Comment	This program has proved very successful in identifying deficiencies on sites where HSCA cleanup actions were required but never completed.

## **Pollution Prevention Program**

**Year Program Began: 1990**

**Purpose/Mission:** The purpose of the Pollution Prevention (P2) program is to incorporate the practice of P2 with DNREC activities and operations and to serve as the P2 provider for industry, business, governmental bodies and citizens of Delaware. The P2 program is an independent DNREC program operating within the Office of the Secretary.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	See comments	See comments	See comments	See comments	The universe of the P2 program is any industry, business, government agency and/or citizen of Delaware. Statistics are not currently collected to fully define the program universe.
<b>2. Number of Full Time Equivalent (“FTE”) inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	2	2	2	2	
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	No	No	No	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	N/A	N/A	N/A	N/A	
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation (“NOV”) being issued?</b>	N/A	N/A	N/A	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	N/A	N/A	N/A	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	25	30	25	60	The on-site compliance monitoring activities for this program are not designed to detect violations, but rather how the business/agency/industry/citizen can minimize or eliminate pollution at the site.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	N/A	N/A	N/A	N/A	
<b>9. How many on-site activities resulted in an NOV being issued?</b>	N/A	N/A	N/A	N/A	
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	N/A	N/A	N/A	N/A	
<b>11. Does this program have classifications for higher level violations?</b>	No	No	No	No	

Program Information	FY02	FY03	FY04	FY05	Comments
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	See comments	See comments	On-site Compliance Assistance visits, Pollution Prevention visits, training, program education/ outreach, workshops, and educational materials.
<b>13. How many compliance assistance contacts has the program made each year?</b>	74	3602	3555	3605	These totals (FY02 and FY03) include on-site visits, mailings, and workshop attendance. Information concerning phone and e-mail consultations is not maintained.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	No	No	
<b>15. Unique Aspects of this program</b>	See comments	See comments	See comments	See comments	The P2 program is non-regulatory and offers compliance and P2 assistance to all applicable entities in Delaware.

## Small Business Assistance Program

Year Program Began: 1995

**Purpose/Mission:** The purpose of the Small Business Assistance program is to help small businesses understand and comply with the requirements of the Clean Air Act. The Small Business Ombudsman is part of the program. The ombudsman acts as an advocate for small businesses interacting with DNREC concerning issues related to regulations and compliance with the Clean Air Act. The program is independent of DNREC's regulatory programs and operates under the Office of the Secretary.

Program Information	FY02	FY03	FY04	FY05	Comments
1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)	See comments	See comments	See Comments	See Comments	The program's universe consists of any small business in the State of Delaware. Small businesses are defined as a business that is: 1) owned or operated by a person employing 100 or fewer individuals, 2) a small business under the Small Business Act; 3) is not a major stationary source, 4) does not emit 50 tons or more per year of any regulated pollutant and emits less than 75 tons per year of all. Statistics are not currently collected to determine the number of businesses that meet the above criteria.
2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).	1	1	1	1	
3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)	N/A	N/A	N/A	N/A	The program is non-regulatory and does not perform compliance inspections to detect violations.
4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?	N/A	N/A	N/A	N/A	
5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?	N/A	N/A	N/A	N/A	
6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).	N/A	N/A	N/A	N/A	
7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).	14	16	63	78	These on-site visits are compliance assistance visits and are non-regulatory on-site activities.
8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?	N/A	N/A	N/A	N/A	
9. How many on-site activities resulted in an NOV being issued?	N/A	N/A	N/A	N/A	
10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?	N/A	N/A	N/A	N/A	
11. Does this program have classifications for higher level violations?	N/A	N/A	N/A	N/A	

Program Information	FY02	FY03	FY04	FY05	Comments
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See comments	See comments	See comments	See Comments	On-site audits, office consultations, phone/e-mail consultations, workshops/training classes, trade assn meetings, educational materials, and Regulatory Advisory service for permit applicants.
<b>13. How many compliance assistance contacts has the program made each year?</b>	231	245	590	712	Totals include phone, e-mail, site visits and workshops/training classes. Number of attendees was not formally collected.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	No	No	No	No	
<b>15. Unique Aspects of this program</b>	See comments	See comments	See comments	See Comments	The SBAP is a non-regulatory program. SBAP offers compliance assistance through various means to small businesses. Small businesses must voluntarily choose to participate in services offered by this program. SBAP also does outreach to small businesses through publications and other types of newsletters, mailings, and flyers.



## **Boiler Safety**

**Year Program Began: 1919 as Board of Boiler Rules**

**Purpose/Mission:** To promote public safety through inspections of boilers and pressure vessels, and providing education on the operation, maintenance and repair of boilers and pressure vessels in the State of Delaware.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>1. Program Universe (Number of regulated sites/facilities/persons and/or permits/approvals issued; sites/facilities registered with program.)</b>	See Comments	See Comments	See Comments	15,761	Please Note: This is the first year Boiler Safety program information has been included in DNREC's Annual Enforcement and Compliance Report, as the Boiler Safety Program was moved from Public Safety to DNREC's Division of Air and Waste Management. The Boiler Safety database lists 4117 owners that may have multiple locations. There are 15,761 active boilers and pressure vessels requiring certificates.
<b>2. Number of Full Time Equivalent ("FTE") inspector positions that are employed by the program (FTEs are rounded up to next whole number if over 0.5).</b>	See Comments	See Comments	See Comments	3	The Boiler Safety Program employs 2 field inspectors and the director, who also performs inspections and performs ASME and National Board Shop reviews for manufacturers and repair companies in Delaware. Director also represents Delaware on the ASME Conference Committee and is a Member of the National Board of Boiler and Pressure Vessel Inspectors
<b>3. Does the program use off-site compliance monitoring activities to detect violations? (Office review of submissions from the facility/site or information from self-reporting requirements)</b>	See Comments	See Comments	See Comments	No	
<b>4. If yes to 3 above, how many off-site compliance monitoring activities were conducted by the program?</b>	See Comments	See Comments	See Comments	N/A	Boiler and pressure vessels inspections completed and submitted to agency for issuance of an operating certificate. These were performed by insurance company inspectors and Owner/User Inspectors.
<b>5. How many off-site compliance monitoring activities resulted in a Notice of Violation ("NOV") being issued?</b>	See Comments	See Comments	See Comments	N/A	
<b>6. How many off-site activities resulted in a major enforcement action? (Major enforcement actions are above the NOV level).</b>	See Comments	See Comments	See Comments	N/A	
<b>7. How many <u>on-site</u> compliance monitoring activities were performed by the section? (Inspections performed by DNREC staff at facilities/sites).</b>	See Comments	See Comments	See Comments	5803	The Boiler Safety program regulates 17 insurance companies with 146 insurance company inspectors holding Delaware commissions and 3 Owner/User Inspection companies in the state with 11 Owner/User Inspectors that submit inspection reports to the office. All inspections performed on boilers and pressure vessels are on-site at location of object. Reports are issued by all inspectors to our office for review, approval and invoicing.
<b>8. How many on-site compliance monitoring activities resulted in a Notice of Deficiency or Letter of Warning?</b>	See Comments	See Comments	See Comments	N/A	Program does not use Notice of Deficiency or Letter of Warning.

<b>Program Information</b>	<b>FY02</b>	<b>FY03</b>	<b>FY04</b>	<b>FY05</b>	<b>Comments</b>
<b>9. How many on-site activities resulted in an NOV being issued?</b>	See Comments	See Comments	See Comments	625	Inspections resulting in violation letter being sent to owner or user of the boiler or pressure vessel.
<b>10. How many on-site activities resulted in an enforcement action above the NOV/Written Violation level?</b>	See Comments	See Comments	See Comments	1	One owner was taken into JP Court for failure to correct violations.
<b>11. Does this program have classifications for higher level violations?</b>	See Comments	See Comments	See Comments	No	Delaware law permits Boiler Safety Program to take owner or user to JP Court only. Inspectors have limited powers similar to a constable.
<b>12. What type of compliance assistance is offered to the program's regulated community?</b>	See Comments	See Comments	See Comments	See Comments	The Boiler Safety program provides safety training to all 19 school districts in the state. Have 3 contractor/owner safety seminars per year and one inspector's seminar per year. Also meet with contractors on a one on one basis as required.
<b>13. How many compliance assistance contacts has the program made each year?</b>	See Comments	See Comments	See Comments	550	This total is an estimate. Contacts have not been historically tracked as the program receives approximately 5 to ten telephone inquiries per day. The program has between 300-350 attendees at seminars.
<b>14. Did the program utilize Environmental Officers for criminal investigations?</b>	See Comments	See Comments	See Comments	No	The program did use an enforcement officer one time to take an owner to court.
<b>15. Unique Aspects of this program</b>	See Comments	See Comments	See Comments	See Comments	Boiler Safety regulates boilers and pressure vessels located in places of public assembly in the state. The program conducts Joint Reviews for manufacturers of ASME Code built boiler and pressure vessels and National Board Certified repair organizations. There are 13 manufacturers and repair companies having 27 Authorization Certificates in the state. The Director of the program also is a member of the ASME Conference Committee with voting rights for national Codes and is also a member of the National Board of Boiler and Pressure Vessel Inspectors which is the national organization that allows boilers and pressure vessels to be built anywhere in the world and still meet our requirements for construction.